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[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. FAA-2001-10770; SFAR 92-3]

RIN 2120-AH55

Flightcrew Compartment Access and Door Designs

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action supersedes SFAR 92-2, which was published on November 21, 2001 to allow operators to quickly modify the flightcrew compartment door to delay or deter unauthorized entry to the flightcrew compartment. This action temporarily authorizes variances from existing design standards for the doors and allows for approval for return to service of modified airplanes without prior approved data if the modification constitutes a major alteration. This action also mandates these modifications on aircraft in certain passenger and cargo carrying operations and extends the January 15, 2002, reporting date. This action prohibits the possession of flightdeck compartment door keys by other than the flightcrew during flight, unless the flightdeck door has an internal flightdeck locking device installed, operative, and in use. This action is being taken in the wake of the September 11, 2001, terrorist attacks against four U.S. commercial airplanes.

DATES: This action is effective [Insert date published in Federal Register] and shall remain in effect until April 9, 2003.

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Part IV

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SUPPLEMENTARY INFORMATION:

Availability of This Action

You can get an electronic copy of this document from the Internet by taking the following steps:

- (1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) web page (<http://dms.dot.gov/search>).
- (2) On the search page, type in the last four digits of the docket number shown at the beginning of this document. Click on "search."
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You can also get an electronic copy using the Internet through the FAA's web page at <http://www.faa.gov/avr/arm/nprm/nprm.htm> or the Government Printing Office's web page at http://www.access.gpo.gov/su_docs/aces/aces140.html.

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Ave., SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket number or notice number of this rulemaking.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information advice about compliance with statutes and regulations within the FAA's jurisdiction. Therefore, any small entity that has a question regarding this document may contact its local FAA official. Internet users can find additional information on SBREFA on the FAA's web page at <http://www.faa.gov/avr/arm/sbrefa.htm> and send electronic inquiries to the following Internet address: 9-AWA-SBREFA@faa.gov.

Background

The September 11, 2001, hijacking events have demonstrated that some persons are willing to hijack airplanes and use them as weapons against the citizens of the United States. This is a safety and security threat that was not anticipated and, therefore, not considered in the design of transport airplanes. The recent hijackings make it clear that there is a critical need to improve the security of the flightcrew compartment. These improvements should deter terrorist activities and, if they are attempted, delay or deny access to the cockpit.

On November 16, 2001, Congress enacted the Aviation and Transportation Security Act, Public Law 107-71. Section 104(a)(1)(B) of the Act requires the FAA to issue an order requiring the strengthening of the flight deck door and locks on certain passenger carrying aircraft.

Flightcrew Compartment Door Designs

Flightcrew compartment doors on transport category airplanes have been designed principally to ensure privacy, so pilots could focus their entire attention to their normal and

emergency flight duties. The doors have not been designed to provide an impenetrable barrier between the cabin and the flightcrew compartment. Doors have not been required to meet any significant security threat, such as small arms fire or shrapnel, or the exercise of brute force to enter the flightcrew compartment.

Besides affording an uninterrupted work environment for the flightcrew, flightcrew compartment doors often must meet other important safety standards. Should there be a sudden decompression of the airplane, separate compartments within the airplane, like the cabin and the crew compartment, must be designed so that the pressure differential that is created does not compromise the basic airplane structure. Certification standards require that airplane designs provide a method to compensate for decompression in a manner that avoids significant damage to the airplane. In many cases, flightcrew compartment doors provide the pressure compensation by being vented or swinging open to equalize the pressure between the cabin and the flightcrew compartment.

In addition, design standards require that the flightcrew have a path to exit the flightcrew compartment in an emergency, if the cockpit window exits are not usable. Flightcrew compartment doors have been designed to provide this escape path. But this escape feature may also enable easier unauthorized entry into the flightcrew compartment from the cabin.

Operating regulations, in particular § 121.379(b) in the case of a major alteration, require the work to be done in accordance with technical data approved by the Administrator. Operating regulations for airlines also require that each crewmember have a key readily available to open doors between passengers and an emergency exit. Some airlines issue flightcrew compartment door keys to all their crewmembers. This allows

flight attendants to enter the flightcrew compartment and assist the flightcrew in an emergency, such as incapacitation of a flight crewmember. But it also offers an opportunity for an individual to overpower or coerce a flight attendant, take away the key, and enter the flightcrew compartment.

Rapid Response Team

To evaluate what could be done to improve flightcrew compartment security, the Secretary of Transportation formed a Rapid Response Team for Aircraft Security. The Team included representatives of airplane designers, airline operators, airline pilots, and flight attendants. There was a clear consensus from this group, and agreement by the FAA, that immediate actions must be taken to strengthen the flightcrew compartment door. The short-term options, though, in one way or another could conflict with regulatory design requirements such as those discussed above.

The Rapid Response Team addressed the design issues and found the relative safety risks to be small in view of the emergent security risk of unauthorized flightcrew compartment entry. The FAA agrees with this conclusion. The Rapid Response Team report also concluded, and the FAA agrees, that all existing design requirements should continue to be applied in the long term. Therefore, this SFAR allows a temporary period during which non-compliance with design requirements will be allowed when improvements to flightcrew compartment security are made.

In addition to waiving specific airworthiness regulations, the FAA is waiving procedural requirements applicable to major alterations (§ 121.379(b)). Besides the information obtained from the Rapid Response Team, the FAA has received technical information from airline operators and manufacturers regarding what modifications are

possible and how quickly they can be incorporated. The technical data reviewed by the FAA reflect good design practices, and the FAA is confident that installations can be made without unduly compromising safety.

Given the urgency of the need to take action to reinforce the flightcrew compartment doors, the FAA finds that it is in the public interest to forego the requirement that major alterations to accomplish this task have data previously approved by the Administrator. This portion of the SFAR is limited to 6 months. Major alterations performed after that date must be in accordance with approved data, and whatever the operator installs in the short term must ultimately be brought into full regulatory compliance.

The Original SFAR 92 Provisions

Original SFAR 92 was published on October 9, 2001, and allowed all part 121 passenger carrying operators to install flightcrew compartment door improvements as well as prohibiting possession of flightcrew compartment keys by persons other than flight crewmembers during flight. It was very broad to allow maximum short-term flexibility in crafting enhanced door security measures. It allowed the doors to be modified and airplanes to be operated with modified doors.

The FAA established an 18-month duration for the portions of the SFAR concerning airworthiness requirements. We expected this would give the industry sufficient time to design and install more permanent changes to door security and establish procedures for flightcrew compartment door access that meet regulatory requirements for egress and venting.

The SFAR required operators to submit a report to the FAA that details the specific modifications they make to the flightcrew compartment door. This will allow the FAA to monitor what has been installed and take action if the installation creates an unacceptable safety risk. Further, to monitor progress toward the goal of full compliance, the SFAR required a report by April 22, 2002 that describes how the operator will meet regulatory compliance for egress and venting.

We also expected that airframe manufacturers and modifiers would produce service information to assist operators in developing modifications to improve intrusion resistance to the flightcrew compartment. While service documents would not require separate approval under this SFAR, such modifications may also be installed in production airplanes. The modification authority granted by the SFAR also applied to manufacturers and other persons applying for airworthiness certificates to enable delivery of airplanes to the operators.

In addition, we understood that some operators might rely on suppliers to produce parts to support these modifications to the flightcrew doors. Under normal circumstances, such parts producers would be subject to the requirement to obtain parts manufacturer approvals in accordance with 14 CFR 21.303. However, to facilitate reinforcement of these doors, the SFAR included a provision overriding the requirement for parts production approval in support of these activities.

Should any of the changes to the door constitute a major alteration, the SFAR temporarily relieved the operator of having to obtain prior approval of the data. This part of the SFAR terminates on April 22, 2002. As soon as the design data is submitted, the FAA will work with the operators to identify a mutually acceptable process and time to get

the data approved. In the meantime, the airworthiness certificates on airplanes that have been modified will remain valid. In making returns to service of airplanes modified under the SFAR, documents can reflect compliance with regulatory requirements by citing the SFAR.

In addition to the above changes to harden the flightcrew compartment doors against intruders, the FAA also believed it was prudent to eliminate the ability of intruders to gain access by obtaining a flight attendant's key. For that reason, the SFAR temporarily changed the requirement in § 121.313(g) by stating that only flight crewmembers, and not cabin crewmembers, would have flight crew compartment keys during flight. This would lessen the opportunity for gaining unauthorized access and reduce the likelihood of attacks on cabin crewmembers to obtain keys on airplanes where the flightdeck door does not have an internal locking device.

First revision to SFAR 92----SFAR 92-1

SFAR 92 has remained substantially as originally written. However, modifications have been issued to change the scope of the rule and to clarify specific provisions. SFAR 92 originally authorized only part 121 passenger carrying operators to make the quick modifications to the flightdeck doors. Because of the risk posed by having other than flightcrew members onboard the aircraft as allowed in § 121.583, FedEx petitioned the FAA to allow it to install additional door security measures in accordance with the provisions of SFAR 92. The FAA determined that the modifications requested by FedEx would apply to similarly situated cargo airplane operators and that the threat is similar to that of passenger airplanes. SFAR 92-1 was published on October 17, 2001, to expand the modification authority to all part 121 operators.

Second Revision to SFAR 92----SFAR 92-2

As originally published, SFAR 92 temporarily changed section 121.313(g) to prohibit the possession of flightdeck keys by non-flightdeck crewmembers. Since initial issuance of the SFAR, internal locking devices that render the key useless for flightdeck access have been installed on many air carrier airplanes. Since the keys have multiple uses in the airplane beyond the flightdeck door, prohibiting possession of the flightdeck door keys by non-flight crewmembers on these airplanes is only an inconvenience to the crew and not a deterrent to terrorist activity.

Allowing non-flight crewmembers access to the keys is acceptable when the internal locking device is in use on the airplane. "In use" contemplates that the device is locked from the inside by the flightdeck crew. If a flightdeck crewmember must exit the flightdeck for some reason, either the remaining flightdeck crewmember, or a cabin crewmember that enters the flightdeck, will immediately lock the internal device behind the exiting flightdeck crewmember. This provision may also reduce the opportunity for coercion, since the flight attendant can safely hand over the key.

As a result, SFAR 92-2 was published on November 21, 2001, to add a phrase to the end of § 121.313(a)(ii) to allow possession of the key under certain circumstances. The limitations on keys do not apply to cargo operators because flight attendants are only required on passenger airplanes nor do they apply to part 129 operators because part 121 regulation do not apply to them. This change to 121.313(g) will expire with this SFAR.

SFAR 92-2 also replaced the 90 day and 180 day reporting and termination time frames with specific dates, January 15, 2002, and April 22, 2002 respectively. Since

SFAR 92 was republished more than once, insertion of specific dates will eliminate confusion in calculating these dates.

This Revision to SFAR 92----SFAR 92-3

When SFAR 92 was originally issued, and subsequently revised, it was the expectation of the FAA that flightdeck modifications would be made as soon as possible. While this has been the case for the substantial majority of operators, not all have accomplished the short-term modifications. Because of the FAAs original expectation, SFAR 92 did not contain a provision mandating the internal door modifications. Now, the FAA has determined that a mandate is necessary to assure that all part 121 passenger-carrying aircraft required to have flightdeck doors are modified. The FAA has also considered the issue of airplanes that carry only cargo, but are permitted to also carry certain persons as defined in § 121.583 as discussed in SFAR 92-1. Current provisions of the regulations do not ensure that a person who is intent on using an airplane as a weapon would be unable to board an all-cargo airplane in accordance with § 121.583. Therefore, in cases where these airplanes already have flightdeck doors, the FAA has determined that the door should also be modified to improve security.

Pub. L. 107-71 directs the Administrator of the FAA to issue an order requiring the strengthening of flightdeck doors and locks. Revision 92-3 is being issued to require installation of internal locking devices on flightdeck doors within 45 days of publication of this revision. The aircraft covered by this provision are passenger-carrying aircraft operated under part 121 that are required to have flightdeck doors and all-cargo airplanes that have flightdeck doors installed. Given the large number of modifications already made on a large variety of aircraft within the fleet, the FAA believes that 45 days should

provide operators who have not yet made the relevant modifications with sufficient time to do so.

This revision to the SFAR will also expand the modification authority to U.S. registered, transport category aircraft that are operated under part 129, foreign operations. Because these aircraft are U.S. registered, the FAA must issue any authorization to modify the aircraft. The FAA has received several inquiries from such operators requesting authorization to make modifications as authorized in SFAR 92. SFAR 92-3 will provide such authorization.

The FAA recognizes that mandating the reinforcing modifications for part 121 operators and authorizing part 129 operators to make modifications may not enable some to make the January 15, 2002, reporting requirements in SFAR 92-2. As a result, this revision extends the reporting date to February 15, 2002. The FAA expects that those who have already made modifications will still meet the January 15, 2002, reporting date.

Other Rulemaking

In parallel with this SFAR 92-3, the FAA is issuing an immediately adopted rule (IAR) which will adopt new design standards for flight deck doors in part 25 of the Federal Aviation Regulations. Generally speaking, these new standards will enhance resistance to blunt force and ballistic intrusion. Also, the IAR will require all aircraft required to have a door under section 121.313(f), as well as all-cargo airplanes that have flightdeck doors installed, to have a door meeting the new design standard. The stronger doors must be installed not later than April 9, 2003, the expiration date of this SFAR. In essence, the doors meeting the new design standards will replace the doors reinforced under this SFAR.

Justification for Immediate Adoption

Because the circumstances described herein warrant immediate action by the FAA, the Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. Further, the Administrator finds that good cause exists under 5 U.S.C 553(d) for making this rule effective immediately upon publication. This action is necessary to prevent a possible imminent hazard to airplanes and to protect persons and property within the United States.

Additionally, with respect to the provisions requiring modifications to strengthen the flight deck doors and locks, PL 107-71 authorizes the Administrator to issue an order without regard to the provisions of chapter 5 of Title 5 of the United States Code. The modification to section 121.313 contained in this SFAR is within the scope of this authority and is adopted without public notice and a prior opportunity to comment.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA determined that there are no ICAO Standards and Recommended Practices that correspond to this SFAR.

Paperwork Reduction Act

This emergency final SFAR contains information collection activities subject to the Paperwork Reduction Act of 1995 (44 USC § 3507(d)). In accordance with section 3507(j)(1)(B) of that statute, the FAA requested the Office of Management and Budget to grant an immediate emergency clearance on the paperwork package. OMB granted an

emergency clearance and assigned OMB control number 2120-1674. As protection provided by the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Following is a description of the information collection burden associated. .

Title: Flightcrew Compartment Access and Door Designs

Summary/Need: The SFAR requires operators to submit a report to the FAA by February 15, 2002 that details the specific modifications. This will allow the FAA to monitor what has been installed and take action if the installation creates an unwarranted safety risk. Further, to monitor progress toward the goal of full compliance, the SFAR requires a report by April 22, 2002 that describes how the operator will come into full regulatory compliance.

Respondents: The respondents are an estimated 135 airplane operators covered under 14 CFR part 121 and 129.

Burden: The burden associated with this SFAR is 6480 hours.

Regulatory Analyses

This rulemaking action is taken under an emergency situation within the meaning of Section 6(a)(3)(D) of Executive Order 12866, Regulatory Planning and Review. It also is considered an emergency regulation under Paragraph 11g of the Department of Transportation (DOT) Regulatory Policies and Procedures. In addition, it is a significant rule within the meaning of the Executive Order and DOT's policies and procedures. No regulatory analysis or evaluation accompanies the rule. At this time, the FAA is not able to assess whether this rule will have a significant impact on a substantial number of small

entities as defined in the Regulatory Flexibility Act of 1980, as amended. However, we will be conducting a regulatory analysis of the cost and benefits of this rulemaking, including any impact on small entities, at a later date.

Executive Order 13132, Federalism

The FAA has analyzed this SFAR under the principles and criteria of Executive Order 13132, Federalism. We have determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we have determined that this final rule does not have federalism implications.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104-4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a \$100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action." This SFAR does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j) this rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of this SFAR has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Pub. L. 94-163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that this SFAR is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety, Charter flights, Reporting and recordkeeping requirements, Safety, Transportation

The Amendment

For the reasons set forth above, the Federal Aviation Administration amends 14 CFR part 121 as follows:

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1153, 40113, 40119, 41706, 44101, 44701-44702, 44705, 44709-44711, 44713, 44716-44717, 44722, 44901, 44903-44904, 44912, 46105.

SFAR No 92-2 [Removed]

2. Remove Special Federal Aviation Regulation No. 92-2, [SFAR] SFAR

~~No. 92-2 [Removed]~~

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3. Add Special Federal Aviation Regulation (SFAR) 92-3 to read as follows

**SPECIAL FEDERAL AVIATION REGULATIONS NO. 92-3 FLIGHTCREW
COMPARTMENT ACCESS AND DOOR DESIGNS**

1. Applicability. This Special Federal Aviation Regulation (SFAR) applies to all operators that hold an air carrier certificate or operating certificate issued under part 119 and that conduct operations under part 121 and to operators of U.S. registered transport category aircraft operated under part 129, except paragraph 4 of this SFAR does not apply to cargo operations and part 129 operations. It applies to the operators specified in this SFAR that modify airplanes to improve the flightcrew compartment door installations to restrict the unwanted entry of persons into the flightcrew compartment. This SFAR also applies to production certificate holders and applicants for airworthiness certificates for airplanes to be operated by operators specified in this SFAR, and producers of parts to be used in such modifications.

2. Regulatory Relief. Contrary provisions of part 21, and §§ 121.153(a)(2), 121.379(b), and 129.13 notwithstanding:

(a) An operator may operate airplanes modified to improve the flightcrew compartment door installations to restrict the unauthorized entry of persons into the flightcrew compartment without regard to the applicable airworthiness requirements and may modify those airplanes for that purpose, using technical data not previously approved by the Administrator, subject to the following conditions:

(i) Not later than February 15, 2002, submit to the Director, Aircraft Certification Service, a detailed description of the changes to the airplane that have been

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accomplished to enhance the intrusion resistance of the flightcrew compartment including identification of what major alterations have been done without previously approved data.

(ii) Not later than April 22, 2002, submit to the Director, Aircraft Certification Service, a schedule for accomplishment of the changes necessary to restore compliance with all applicable airworthiness requirements, as well as a listing of the regulations not currently complied with. The schedule may not extend beyond the termination date of this SFAR.

(iii) If, upon reviewing the data submitted in paragraph 2 (a)(i) of this SFAR, the Administrator determines that a door modification presents an unacceptable safety risk, the FAA may issue an order requiring changes to such modifications.

(b) An applicant for an airworthiness certificate may obtain such a certificate for modified airplanes to be operated by operators described in this SFAR.

(c) A holder of a production certificate may submit for airworthiness certification or approval, modified airplanes to be operated by operators described in this SFAR.

(d) A person may produce parts for installation on airplanes in connection with modifications described in this SFAR, without FAA parts manufacturer approval (PMA).

3. Return to Service Documentation. Where operators have modified airplanes as authorized in this SFAR, the affected airplane must be returned to service with a note that it was done under the provisions of this SFAR.

4. Provision for Flightdeck Door Compartment Key. Contrary to provisions of

§ 121.313(g), the following provision applies: A key for each door that separates a passenger compartment from an emergency exit must be identified to passengers in the briefing required by § 121.571(a)(1)(ii). The key required for access to the emergency exit must be readily available for each crewmember. No key to the flightcrew compartment shall be available to any crewmember during flight, except for flight crewmembers, unless an internal flightdeck locking device such as a deadbolt or bar is installed, operative, and in use.

5. Door Modification Requirement After [45 days after publication] for each airplane required under paragraph 121.313(f) to have a door between the passenger and pilot compartments, and for transport category all-cargo airplanes that have a door installed between the pilot compartment and any other occupied compartment on [the effective date of this amendment] such door must be equipped with an internal locking device installed, operative, and in use. Such internal locking device has to be designed so that it can only be unlocked from inside the flightdeck.

6. Termination. With respect to the ability to approve airplanes for return to service without data previously approved by the Administrator in the case of major alterations, this SFAR terminates on April 22, 2002. All other provisions of this SFAR terminate on April 9, 2003.

Issued in Washington, DC, on JAN 10 2002


Jane F. Garvey
Administrator